

1  
2  
3  
4  
5 UNITED STATES DISTRICT COURT  
6 WESTERN DISTRICT OF WASHINGTON  
7 AT TACOMA

8 JOHN ROBERT DEMOS, JR.,

9 Petitioner,

10 v.

11 DONALD R. HOLBROOK,

12 Respondent.

CASE NO. C21-541BHS

INDICATIVE RULING ON  
REPORT AND  
RECOMMENDATION

13 THIS MATTER is before the Court on Magistrate Judge J. Richard Creatura's  
14 Report and Recommendation, Dkt. 2, recommending that the Court (1) deny Petitioner  
15 John Demos' Motion for Leave to proceed *in forma pauperis* and his proposed § 2254  
16 habeas petition, Dkt. 1; (2) direct the Clerk to administratively close this case; and (3)  
17 deny a Certificate of Appealability.

18 Demos is the subject of a Bar Order requiring him to pay the filing fee for any  
19 claim seeking an extraordinary writ, including those under § 2254. *See Demos v. Stanley*,  
20 MC97-0031-JLW (W.D. Wash. Mar. 13, 1997). He did not pay the filing fee, and this  
21 appears to be a second or successive habeas petition. This Court would therefore ADOPT  
22

1 the Magistrate Judge's Report and Recommendation, deny the petition, close the case,  
2 and deny a Certificate of Appealability.

3 Demos did not object to the Report and Recommendation and instead appealed it  
4 to the Ninth Circuit. Dkt. 3. If and to the extent Demos' appeal deprives this Court of  
5 jurisdiction to enter an Order adopting the Report and Recommendation under Federal  
6 Rule of Civil Procedure 62.1 and Federal Rule of Appellate Procedure 12.1(a), the Court  
7 STATES that it would enter such an Order if the case were remanded for that limited  
8 purpose.

9 If the matter is not remanded, the Court will DEFER a ruling on the Report and  
10 Recommendation until the appeal is resolved.

11 **IT IS SO ORDERED.**

12 Dated this 28th day of June, 2021.

13  
14 

15 BENJAMIN H. SETTLE  
16 United States District Judge  
17  
18  
19  
20  
21  
22